

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CENTURY 21 REAL ESTATE
CORPORATION,

Plaintiff,

vs.

PEARSON-COOK CO., INC.,
TIMOTHY R. FORE, and
PATTI J. FORE,

Defendants.

Case No. 5:03-CV-91

HON. RICHARD ALAN ENSLEN

ORDER

_____ /

This matter is before the Court on Plaintiff's Motion for Preliminary Injunction (the "Motion"), filed September 3, 2003. In lieu of further briefing and hearing on the Motion, the parties have stipulated to the entry of this Order.

IT IS HEREBY ORDERED that, upon entry of this Order, counsel for Plaintiff, Century 21 Real Estate Corporation ("Plaintiff"), Hahn Loeser & Parks LLP ("HLP"), shall release to Plaintiff the sum of \$52,000 that HLP is presently holding in an escrow account (the "HLP Escrow Account"). This money shall be considered to have been paid to and received by Plaintiff as of the dates originally paid by Defendant Pearson-Cook Co., Inc. ("Defendant") to wit: effective August 27, 2003, as to \$27,000; August 28, 2003, as to \$5,000; and October 2, 2003, as to \$20,000. Plaintiff shall credit such amounts against royalties and National Advertising Fund ("NAF") accrued on and after June 1, 2003, at the rate of 6% and 2% of gross revenue respectively (for a total of 8%), all in accordance with the Franchise Agreements between the parties. Defendants shall remain fully liable for all other amounts past due from the commencement of the parties' relationship through September 30, 2003, including but not limited to Development Advance Notes, Expansion Notes, Royalties, NAF, late charges, interest, and attorneys' fees, subject to any defenses claimed by

Defendants. Defendants shall also remain fully responsible for all such amounts that come due under the Franchise Agreements and other obligations from and after October 1, 2003, in accordance with the following paragraphs of this Order, unless otherwise agreed by the parties and ordered by this Court.

IT IS FURTHER ORDERED that Defendant shall (1) deposit into the HLP Escrow Account monthly payments accruing on and after October 1, 2003, equal to 8% (royalties and NAF) of all gross revenue earned, derived and/or received by Defendant from the real estate transactions specified in the Franchise Agreements attached to the Complaint ("Monthly Payments"); and (2) provide a monthly accounting, by office, of all closed real estate transactions and all proceeds or revenues earned by Defendant from such transactions ("Monthly Accounting") to Plaintiff (through its counsel), by the 5th day of each month following the month that the Monthly Payments accrue;

IT IS FURTHER ORDERED that, in the event that a settlement of this litigation is reached, all monies paid by Defendant and held in the HLP Escrow Account with respect to periods on and after October 1, 2003, shall be applied toward any settlement payment ultimately agreed upon by the parties as part of the settlement of this action.

IT IS FURTHER ORDERED that, if either party notifies the Court that a settlement of this action is not feasible, all monies paid by Defendant and held in the HLP Escrow Account with respect to periods on and after October 1, 2003, shall be transferred to an escrow account with the Clerk of this Court, within seven (7) days of such notice, and the Monthly Payments shall thereafter be delivered by Defendant to, and deposited in, the Court escrow account through the termination of this action, and paid out only on such terms as are ordered by this Court. The Monthly Accounting shall continue to be made to Plaintiff (through its counsel) by the 5th day of each month following the month that the Monthly Payments accrue through the termination of this action.

IT IS FURTHER ORDERED that neither party waives any claims or defenses that it may have by virtue of the entry of this stipulated Order or as a result of any actions undertaken in accordance with this Order.

DATED October 17, 2003

/s/ Richard Alan Enslen
RICHARD ALAN ENSLEN
UNITED STATES DISTRICT JUDGE

APPROVED:

Dated: October 17, 2003

DICKINSON WRIGHT PLLC
Attorneys for Plaintiff

By Francis R. Ortiz / by Craig H. Lubben (with consent)
Francis R. Ortiz (P31914)
Jason P. Klingensmith (P61687)

Dated: October 17, 2003

MILLER, JOHNSON, SNELL & CUMMISKEY, P.L.C.
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By Richard E. Hillary II / by Craig H. Lubben
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Richard E. Hillary, II (P56092) (w/ consent)